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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,761	03/09/2004	Darian A. Johnson	49/1284US	4355

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EXAMINER

ASHLEY, BOYER DOLINGER

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 06/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/796,761

Applicant(s)

JOHNSON, DARIAN A.

Examiner

Boyer D. Ashley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 3/18/05.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 16-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

1. This office action is in response to applicant's amendment filed 3/18/05, wherein claims 1-15 were canceled and claims 16-26 were added.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 16-18, 20-21 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Medhurst, U.S. Design Patent 455,057, in view of Hastings, Sr., U.S. patent 3,654,701, or Schmidt et al., U.S. Design Patent 309,090, or Montgomery, U.S. patent 4,707,920.

Medhurst discloses the invention substantially as claimed, including, e.g.: a bottom side (the bottom as shown in Figure 2) and a top side (the top edge as shown in Figure 2) having a distance (see Figure 2) therebetween that is a height; a cutting edge (on the bottom side) having a length between a first end (the left side) and a second end (the right side as shown in Figure 2); the cutting edge comprising at least two arcs having beveled faces (as shown in Figures 1-2 and 6-7. Medhurst lacks the at least one point of local minimum positioned between the first and second ends on the cutting edge at the intersection of two arcs, such that the point of local minimum is a local minimum relative to the top side when compared with any position on the cutting edge adjacent to the point of local minimum. However, Hastings, Sr. (6 Figure 4), Schmidt et

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al. (Figure 1), and Montgomery (58, Figure 6) all discloses that cutting edges with local minimums in combination with arced portions are all old and well known in many types of utility cutting tools for a variety of cutting functions. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use local minimums with utility blade of Medhurst in order to provide an enhanced cutting edge depending upon the type of cutting desired.

As to claim 17, the modified devices of Medhurst disclose a plurality of points of local minimum.

As to claim 18, the modified devices of Medhurst disclose points of local minimum between four and twenty (Medhurst shows 14).

As to claim 20, the modified devices of Medhurst disclose points of local minimum that are equally spaced from one another along the cutting edge (as shown in Medhurst).

As to claim 21, the modified devices of Medhurst disclose at least two arcs, which comprise portions of circle.

4. Claim 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Medhurst, U.S. Design Patent 455,057, in view of Hastings, Sr., U.S. patent 3,654,701, or Schmidt et al., U.S. Design Patent 309,090, or Montgomery, U.S. patent 4,707,920.

The modified devices of Medhurst disclose the invention substantially as claimed except for the specific number of points being eight; however, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use eight points on the blade or any number of points depending upon the size of the blade

for the purpose of providing an enhanced cutting edge with uniformity along the edge, because it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

5. Claim 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Medhurst, U.S. Design Patent 455,057, in view of Hastings, Sr., U.S. patent 3,654,701, or Schmidt et al., U.S. Design Patent 309,090, or Montgomery, U.S. patent 4,707,920.

The modified devices of Medhurst disclose the blade cutting edge of the utility blade as shown in Figure 2 with a length less than about 60 millimeters as all typical utility blades. In the alternative, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a utility knife cutting edge of 60 millimeters or less in length for the utility blades of the modified devices of Medhurst in order to allow the blade to be used with typical utility knife tools, because it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

6. Claims 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over D'Ambro, Sr., et al., U.S. Patent 5,940,970, in view of Medhurst, U.S. Design Patent 455,057, or Hastings, Sr., U.S. patent 3,654,701, or Schmidt et al., U.S. Design Patent 309,090, or Montgomery, U.S. patent 4,707,920.

D'Ambro discloses the a utility blade with a mount (25/21/29/26/27, see columns 3-4, lines 65-66 and 1-10) through which the cutting blade is secured to the utility knife and a housing (10/11/23) to which the mount is attached (integral), the housing having a

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length (see Figure 2) capable of being used as a handle for gripping. D'Ambro further discloses a cutting blade (22) with a bottom side (the bottom as shown in Figure 2) and a top side (the top edge as shown in Figure 2) having a distance (see Figure 2) therebetween that is a height; a cutting edge (on the bottom side) having a length between a first end (the left side) and a second end (the right side as shown in Figure 2); the cutting edge of D'Ambro is serrated (column 3, lines 10-15). However, D'Ambro is silent as the specific type of serrated edge. Medhurst discloses that it is old and well known in the art to use the cutting edge comprising at least two arcs having beveled faces (as shown in Figures 1-2 and 6-7. D'Ambro and Medhurst lack the at least one point of local minimum positioned between the first and second ends on the cutting edge at the intersection of two arcs, such that the point of local minimum is a local minimum relative to the top side when compared with any position on the cutting edge adjacent to the point of local minimum. However, Hastings, Sr. (6 Figure 4), Schmidt et al. (Figure 1), and Montgomery (58, Figure 6) all discloses that cutting edges with local minimums in combination with arced portions are all old and well known in many types of utility cutting tools for a variety of cutting functions. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use local minimums and arcs with utility blade of D'Ambro in order to provide an enhanced cutting edge depending upon the type of cutting desired.

As to claim 24, the modified devices of D'Ambro disclose the cutting blade being capable repeatable secureability and unsecureability to the mount such the housing could be used with various blades.

As to claim 25, the modified devices of Owens disclose the cutting blade being repeatable retractable in to the housing and extendable from within the housing sideways by unscrewing the bolt 35.

7. Claims 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Owens, U.S. Patent 6,00,136, in view of D'Ambro, Sr., et al., U.S. Patent 5,940,970, and Medhurst, U.S. Design Patent 455,057, and Hastings, Sr., U.S. patent 3,654,701, or Schmidt et al., U.S. Design Patent 309,090, or Montgomery, U.S. patent 4,707,920.

Owens discloses the a utility blade with a mount (26/45) through which the cutting blade is secured to the utility knife and a housing (12) to which the mount is attached (integral), the housing having a length (see Figure 2) capable of being used as a handle for gripping. Owens further discloses a cutting blade (22) with a bottom side (the bottom as shown in Figure 2) and a top side (the top edge as shown in Figure 2) having a distance (see Figure 2) therebetween that is a height; a cutting edge (on the bottom side) having a length between a first end (the left side) and a second end (the right side as shown in Figure 2).

Owens lacks the cutting blade having at least two arcs with beveled faces and at least one point of local minimum positioned between the first and second ends on the cutting edge at the intersection of two arcs, such that the point of local minimum is a local minimum relative to the top side when compared with any position on the cutting edge adjacent to the point of local minimum. However, D'Ambro discloses that it is old and well known in the to use serrated type utility cutting edges for the purpose of cutting specific types of workpieces. Medhurst discloses that it is old and well known in the art

to use the utility cutting blades with edges comprising at least two arcs having beveled faces (as shown in Figures 1-2 and 6-7) for the purpose of cutting specific types of workpieces. D'Ambro and Medhurst lack the at least one point of local minimum positioned between the first and second ends on the cutting edge at the intersection of two arcs, such that the point of local minimum is a local minimum relative to the top side when compared with any position on the cutting edge adjacent to the point of local minimum. However, Hastings, Sr. (6 Figure 4), Schmidt et al. (Figure 1), and Montgomery (58, Figure 6) all disclose that cutting edges with local minimums in combination with arced portions are all old and well known in many types of utility cutting tools for a variety of cutting functions. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use local minimums and arcs with utility blade of Owens in order to provide an enhanced cutting edge depending upon the type of cutting desired.

As to claim 24, the modified devices of Owens disclose the cutting blade being capable repeatable secureability and unsecureability to the mount such the housing could be used with various blades.

As to claim 25, the modified devices of Owens disclose the cutting blade being repeatable retractable in to the housing and extendable from within the housing.

### ***Response to Amendment***

8. The Declaration filed on 3/18/05 under 37 CFR 1.131 is sufficient to overcome the Dunn-Rankin reference.



***Response to Arguments***

9. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. The prior art references cited but not relied upon were cited to shown similar devices in the art.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

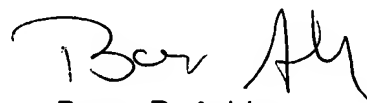
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boyer D. Ashley whose telephone number is 571-272-4502. The examiner can normally be reached on Monday-Thursday 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Boyer D. Ashley  
Primary Examiner  
Art Unit 3724

BDA  
June 2, 2005